



US Army Corps  
of Engineers

# Construction Bulletin

No. 97-10 Issuing Office: CEMP-CP Issue Date: 7/15/97 Exp. Date: 31 DEC 1999

## CEMP-C

**Subject:** Two-Phase Design-Build Selection Procedures

**Applicability:** GUIDANCE

1. **PURPOSE:** To provide guidance on the use of two-phase design-build selection procedures.
2. **BACKGROUND:** Federal Acquisition Regulation Subpart 36.3 became effective on 2 January 1997 and prescribes policies and procedures for use of the two-phase design-build selection procedures authorized by 10 U.S.C. 2305a and 41 U.S.C. 253m. One of the primary reasons why this new law was enacted was in response to industry concerns about high proposal preparation costs incurred by a significant number of unsuccessful offerors on design-build solicitations.
3. The two-phase procedures essentially provide for a two-phased approach whereby, under phase one, qualifications based proposals (similar to A-E selection type information) are evaluated and three to five offerors then go to phase two for submission of technical and price proposals. The second phase process follows the competitive negotiation procedures outlined in FAR Part 15 and is very similar to the traditional one-step design-build process the Corps has been using for many years.
4. The decision to use the two-phase design-build selection procedure is made by the contracting officer based on the development of a sound acquisition strategy for the particular project. Although the final strategy decision rests with the contracting officer, the acquisition planning is a full team effort involving the Corps team (to include construction, engineering, project management, legal, and contracting) as well as the customer. Active customer support and participation throughout the design-build process is essential to success!
5. After award, the administrative contracting officer is responsible for administering the design-build contract and must be thoroughly familiar with the terms (and intent) of that contract which are defined by the RFP and the successful proposal. Therefore, it is very important that construction personnel get involved in the very beginning and stay involved throughout the RFP preparation and review phase and the proposal evaluation process.

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SUBJECT: Two-Phase Design-Build Selection Procedures

6. The conditions for use of two-phase design-build procedures are addressed at FAR 36.301(b). There are situations where the one-step "turnkey" approach might still be more appropriate. For example, a project that would not require a substantial initial investment by offerors to accomplish "design" during the solicitation process as a condition of preparing a price proposal may be a good candidate. This could be the case when the project is technically simple (such as a warehouse) or where the Government has included substantial design in its RFP (such as a site adapt or standard design). In these situations the award can be made to the lowest priced technically acceptable offeror or if warranted, on a best value determination. Best value principles would almost always be employed with the two-phase approach. This is because the Government has a need to differentiate among the various technical proposals and may be willing to consider paying more for a higher quality proposal based on a trade off analysis.

7. This Construction Bulletin was coordinated with Engineering Division (CEMP-E), the Office of the Principal Assistant Responsible for Contracting (CEPR-ZA) and the Office of Chief Counsel (CECC-C).

  
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